UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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ART UNIT	PAPER NUMBER
2135	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _14 March 2008_.
2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-7,12-18 and 38-41_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-7, 12-18, 38-41_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1. This action in responsive to the communication filed on March 14, 2008. Claims

1-7, 12-18, 38-41 are pending.

2. Applicant's election without traverse of the elected group I, claims 1-7, 12-18, 38-

41, in the reply filed on 3/14/2008 is acknowledged. Claims 38-47 are withdrawn and

canceled by the applicant from further consideration pursuant to 37 CFR 1.142(b) as

being drawn to a nonelected group II.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

3. Claims 15-18, 41 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

Claim 15 recites "A machine-accessible medium containing instructions, which when

executed by a machine, cause said machine to perform operations, comprising.....".

From the specification page 22, paragraph 0063, it states "The program(s) of the

program product defines functions of the embodiments (including the methods

described herein) and can be **contained on a variety of signal-bearing media**.

Illustrative signal-bearing media include, but are not limited to: (i) information

permanently stored on non-writable storage media (e.g., read-only memory devices

within a computer such as CD-ROM disks readable by a CD-ROM drive); (ii) alterable information stored on writable storage media (e.g., floppy disks within a diskette drive or hard-disk drive); and (iii) information conveyed to a computer by **a communications medium, such as through a computer or telephone network, including wireless communications....**". Based on the cited disclosure above, it is determined that the machine-accessible medium carrying a signal recites a non-statutory matter. However, the signal is not limited to a tangible embodiment. Therefore, **Claim 15 is rejected under 35 USC 101**.

Claims 16-18, 41 depend on claim 15, therefore they are rejected with the same rationale applied against claim 15 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-7, 12, 15-18, 38, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girard (US Patent No. 7,093,124) and in view of Dayan et al. (US Pub. No. 2002/0188837).

<u>As per claim 1</u>, Girard teaches:

selecting the bootable image comprising software to determine the trustworthiness of a software application on a maintenance server prior to executing the software application, for the remote client [Fig. 1, col. 7 lines 3-19, Fig. 4, col. 7 lines 35-48, Fig. 5, 6]; generating a wake-on-LAN packet and transmitting the wake-on-LAN packet to the remote client to wake up the remote client and to instruct a pre-boot application of the remote client to boot via the bootable image [Fig. 6, col. 8 lines 10-43].

Girard teaches the wake-on-LAN packet which includes pluralities of parameters to wake up and/or boot the remote client. However, Girard doesn't expressively mention the wake-on-packet with partition identification.

Dayan teaches

with a partition identification, the partition identification being associated with a location of the bootable image, to identify the location within a local resource of the remote client [Fig. 4, paragraph 0008, 0010, 0034, 0035]; and transmitting the wake-on-LAN packet to the remote client to wake up the remote client and to instruct a pre-boot application of the remote client to boot via the bootable image [Fig. 4, paragraph 0008, 0010, 0034, 0035].

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Dayan with Girard to include directive information into the wake-on-LAN packet (magic packet), since one would have been motivated to boot to a designated partition in a nonvolatile storage unit without requiring a local operator [Dayan, paragraph 0007].

As per claim 2, the rejection of claim 1 is incorporated and Dayan teaches:

selecting the bootable image from a drive, the drive being internal to the remote client

[Fig. 4, paragraph 0034, 0035].

 As per claim 3, the rejection of claim 1 is incorporated and Dayan teaches:

selecting the bootable image from a secure resource of the remote client [Fig. 4,

paragraph 0034, 0035].

As per claim 4, the rejection of claim 1 is incorporated and Dayan teaches:

resource comprises selecting the bootable image from a hidden partition associated

with the remote client [Fig. 4, paragraph 0034, 0035].

As per claim 5, the rejection of claim 1 is incorporated and Dayan teaches:

selecting a representation of a bootable image, the representation to be associated with

the bootable image by the remote client [Fig. 4, paragraph 0034, 0035].

As per claim 6, the rejection of claim 1 is incorporated and Dayan teaches:

extending the wake-on-LAN packet with the partition identification [paragraph 0008,

0010].

As per claim 7, the rejection of claim 1 is incorporated and Dayan teaches:

generating a parameter to associate with the partition identification to provide a post-

boot instruction to the remote client [Fig. 4, paragraph 0008, 0010, 0034, 0035].

As per claim12, the rejection of claim 1 is incorporated and Girard teaches:

transmitting comprises broadcasting the wake-on-LAN packet to the remote client and

at least one other remote client [Fig. 1].

As per claim15, it encompasses limitations that are similar to those of claim 1. Thus, it is

rejected with the same rationale applied against claim 1 above.

As per claim16, the rejection of claim 15 is incorporated and it encompasses limitations

that are similar to those of claim 3. Thus, it is rejected with the same rationale applied

against claim 3 above.

As per claim17, the rejection of claim 15 is incorporated and it encompasses limitations

that are similar to those of claim 6. Thus, it is rejected with the same rationale applied

against claim 6 above.

As per claim18, the rejection of claim 15 is incorporated and Girard teaches:

broadcasting the wake-on-LAN packet to the remote client and at least one other

remote client [Fig. 1].

As per claim 38, the rejection of claim 1 is incorporated and Girard teaches:

downloading the software application from the maintenance server to the remote client

subject to a determination of the trustworthiness of the maintenance server by the

remote client [Fig. 1, col. 7 lines 3-19, Fig. 4, col. 7 lines 35-48, Fig. 5, 6].

As per claim 39, the rejection of claim 1 is incorporated and Girard teaches:

passing a parameter to the bootable image to initiate the software application on the maintenance server subject to a determination of the trustworthiness of the maintenance server by the remote client [Fig. 1, col. 7 lines 3-19, Fig. 4, col. 7 lines 35-48, Fig. 5, 6].

As per claim 41, the rejection of claim 15 is incorporated and it encompasses limitations that are similar to those of claim 38. Thus, it is rejected with the same rationale applied against claim 38 above.

5. Claims 13, 14 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girard (US Patent No. 7,093,124) in view of Dayan et al. (US Pub. No. 2002/0188837) and in view of Kim (US Pub. No. 2004/0163008).

As per claim 13, Girard teaches:

a server computer system in communication with at least one client computer system, the server computer system comprises a processor capable to selecting the bootable image comprising software to determine the trustworthiness of a software application on a maintenance server prior to executing the software application, for the remote client [Fig. 1, col. 7 lines 3-19, Fig. 4, col. 7 lines 35-48, Fig. 5, 6]; wherein the server computer system is capable of generating a wake-on-LAN packet and wherein the server computer system is capable of transmitting the wake-on-LAN packet to the

remote client to wake up the remote client and to instruct a pre-boot application of the remote client to boot via the bootable image [Fig. 6, col. 8 lines 10-43].

Girard teaches the wake-on-LAN packet which includes pluralities of parameters to wake up and/or boot the remote client. However, Girard doesn't expressively mention the wake-on-packet with partition identification.

Dayan teaches

with a partition identification, the partition identification being associated with a location of the bootable image, to identify the location within a local resource of the remote client [Fig. 4, paragraph 0008, 0010, 0034, 0035]; and wherein the server computer system is capable of transmitting the wake-on-LAN packet to the remote client to wake up the remote client and to instruct a pre-boot application of the remote client to boot via the bootable image [Fig. 4, paragraph 0008, 0010, 0034, 0035].

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Dayan with Girard to include directive information into the wake-on-LAN packet (magic packet), since one would have been motivated to boot to a designated partition in a nonvolatile storage unit without requiring a local operator [Dayan, paragraph 0007].

Further, in an analogous art, Kim teaches: a database, the database comprising an indication of one or more clients and the status of their wake-on-LAN functionality [Fig. 2, 6, paragraph 0043].

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Kim with Girard and Dayan, since one would have

been motivated to mange end user application software and services available on computer network from a central location and reduce the overall cost of the computers on the network [Kim, paragraph 0010, 0012].

As per claim14, the rejection of claim 13 is incorporated and Girard teaches:

an Ethernet network coupled to the server computer system and the at least one client computer system [Fig. 1].

As per claim 40, the rejection of claim 13 is incorporated and Girard teaches:

wherein the server computer system is capable of downloading the software application by the maintenance server to the remote client subject to a determination of the trustworthiness of the maintenance server by the remote client [Fig. 1, col. 7 lines 3-19, Fig. 4, col. 7 lines 35-48, Fig. 5, 6].

Response to Amendment

6. Applicant has amended claims 1, 13 and 15 (see applicant's amendment submitted on 6/21/07), which necessitated new ground of rejection. See new ground of rejection above.

Regarding to the Applicant's argument to the 35 USC § 101 rejection, Examiner disagrees with applicant and still maintains that claims 15-18 and 41 recite non-statutory matter. See 35 U.S.C. 101 rejection above.

Applicant has amended claims 1, 13, 15 to correct the double patenting rejection. The newly amended claims overcome such deficiency and therefore, previous double patenting rejection is withdrawn.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Connery et al (US 6606709) - -Secure system for remote management and wake-up commands

Cromer et al (US 6526507) – Data processing system and method for waking a client only in response to receipt of an authenticated wake-on-LAN packet

Locket et al (US 6158020) – Remote jumper set and reset

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIRAV PATEL whose telephone number is (571)272-5936. The examiner can normally be reached on 8 am - 4:30 pm (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NBP

6/6/08

/KIMYEN VU/
Supervisory Patent Examiner, Art Unit 2135